

### **REMARKS/ARGUMENTS**

This letter is responsive to the Office Action dated October 4, 2005. This response is accompanied by a one month extension of time. Therefore please consider this response as timely filed.

In this response the applicant has not added any claims. Accordingly, no claim fees are due with this response.

In the Office Action, the Examiner has objected to claims 21 and 22 for several informalities. The Examiner stated that claim 21 was missing a letter 'e' in the word 'shoes' in line 1, and that claim 22 was missing a letter 'e' in the word 'scanner' in line 2. The applicant submits that the copy of the claims as filed do show an 'e' in those respective places, and that the 'e' has been lost during the scanning process at the patent office.

The Examiner has further objected to claim 22 for its dependency on claim 11. The applicant has revised the dependency of claim 22 in the claims currently submitted, so that it depends from claim 13, as the Examiner had assumed.

In the Office Action, the Examiner has rejected claims 1-19 under 35 USC 102(e) as being anticipated by Dowdell. The Examiner has stated that Dowdell discloses a method and system for sizing feet, that includes generating a trace outline of the foot from a digital image of the foot in column 10, lines 35-48. The applicant submits that Dowdell discloses nothing regarding obtaining a trace outline of the foot from the digital image of the foot. The cited passage in Dowdell, instead refers to the process for obtaining the initial digital image. In that process, a white background is suggested for use, to assist in increasing the contrast between portions of the digital image containing the foot, and portions of the image containing background. Dowdell suggested that the

increased contrast would facilitate the steps related to finding the edge of foot. The program of Dowdell does not produce a trace outline, however. The program of Dowdell searches for several edge points on the foot, so that certain foot data can be calculated. For example, the program may process the digital image to find the forwardmost point on the foot and the rearmost point on the foot, thereby permitting the length of the foot to be calculated. Finding data, such as the forwardmost and rearmost points on the foot, however, is entirely different than generating a trace outline of the digital image, as is claimed in step (b) of both claims 1 and 7. Thus, the applicant submits that claims 1 and 7 are not anticipated by the teachings of Dowdell, and that they are patentable over Dowdell.

With respect to claims 2-6 and claims 8-12, the Examiner cited column 12, lines 36-40 as describing "approximating at least one portion of the trace outline with at least one mathematical curve". The applicant submits that claims 2-6 and 8-12 are not anticipated by Dowdell and are patentable over Dowdell at least by way of their dependency on claims 1 and 7 respectively.

Furthermore, the passage at column 12, lines 36-40 of Dowdell states that a user "can scan their selected foot at home, using a standard flatbed scanner, such as an HP Scanjet II™, and transmit the scanned foot image to computer 420 for the selection of shoes." The applicant submits that this statement teaches nothing about approximating at least a portion of the trace outline with at least a mathematical curve, as is claimed in claims 2 and 8. The applicant further submits that the statement teaches nothing about a trace outline altogether, let alone processing the trace outline to approximate some or all of it using mathematical curves. Accordingly, the applicant submits that claims 2-6 and 8-12 are not anticipated and are patentable over Dowdell.

With respect to claim 13, the Examiner has stated that at column 4, lines 9-34, Dowdell teaches a computer adapted to receive a digital image of the foot, the computer having stored thereon a software package, the software package including an image processing component, wherein the image processing component is adapted for

receiving the digital image of the foot and producing a trace outline of the foot, the software package including a foot data component, wherein the foot data component is adapted to receive the trace outline and determine foot data from the trace outline.

Column 4, lines 9-34 of Dowdell discloses that the program 30 receives foot data from the user and compares it to shoe data, and indicates the predicted quality of fit of the shoe. Additionally, it discloses a method which includes obtaining foot measurements, selecting a shoe, obtaining shoe measurements, comparing the shoe and foot measurements and generating at least one fit indicator based on the comparison. Additionally, it discloses a program that receives raw foot information, normalizing information and user information, and processes the raw foot information using the normalizing information to produce foot data. This aspect of the invention is shown in the exemplary embodiment shown Figure 9 of Dowdell, whereby a user measures their foot on a chart, whereby the chart is at an unknown scale. The normalizing information is obtained by measuring an object of known size, such as a credit card, using the chart. The applicant submits that the passage cited by the Examiner does not teach or suggest obtaining a trace outline of a digital image of a foot, and obtaining foot data from the trace outline.

As a result of the above, the applicant submits that claim 13 is not anticipated by Dowdell, and is patentable over Dowdell. Further, claims 14-19 are not anticipated and are patentable over Dowdell at least by way of their dependency on claim 13.

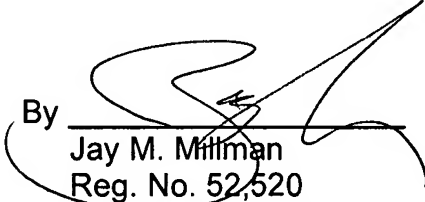
In the office action, the Examiner has rejected claims 20-22 under 35 USC 103(a) as being obvious in view of Dowdell. Claims 20-22 are dependent directly (claim 21 and 22) or indirectly (claim 20) from claim 13. Claim 13 includes, as described above the features that the program produces a trace outline of the foot and obtains foot data from the trace outline. The applicant submits that this feature is not described or suggested at all by Dowdell. By producing a trace outline of the image, a substantial savings in file size is obtained relative to the original digital image. As a result, a database storing foot images for a plurality of users can be made smaller by storing the trace outlines, than if

it stored the digital foot image. Additionally, the exemplary embodiments of the shoe sizing system in accordance with the present invention use points on the outer edge of the foot for shoe-fitting purposes. Thus, points in the inner region of the foot are not necessary for those embodiments. Thus, in these embodiments, producing and working from the trace outline of the foot uses less memory, without necessarily sacrificing useful data. The applicant submits that Dowdell does not discuss or suggest anything regarding the production of a trace outline as claimed in claim 13, and that claims 20-22 are patentable over Dowdell at least by way of their dependency on claim 13.

The applicant respectfully submits that the application is now in condition for allowance.

Respectfully submitted,

BERESKIN & PARR

By   
Jay M. Millman  
Reg. No. 52,520  
Tel: 416-957-1679